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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT WAYNE MCMARTIN,  
a/k/a Charles Bernie Kaiser

Defendant.

Case No. CR 08-00445 HRL

STIPULATION AND ~~PROPOSED~~  
ORDER CONTINUING CHANGE OF  
PLEA DATE AND EXCLUDING TIME  
UNDER THE SPEEDY TRIAL ACT

The undersigned parties respectfully request that the change of plea hearing scheduled for September 25, 2008 at 1:30 p.m. be continued to October 2, 2008 at 9:30 a.m. The reason for the continuance is to afford defendant additional time to review a proposed disposition offered by the government and for defense counsel to complete his investigation of the case. In addition, the parties agree and stipulate that a waiver of time under the Speedy Trial Act from September 25, 2008 to October 2, 2008 is appropriate. The parties agree and stipulate that an exclusion of time is appropriate based on the defendant's need for effective preparation of defense counsel.

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STIPULATION AND [PROPOSED] ORDER  
No. CR 08-0445 HRL

**FILED**

SEP 25 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE

1 SO STIPULATED:

JOSEPH P. RUSSONIELLO  
United States Attorney

2 Dated: 9/22/08

\_\_\_\_\_/s/  
SUSAN KNIGHT  
Assistant United States Attorney

4 Dated: 9/24/08

\_\_\_\_\_/s/  
BERNARD J. VOGEL, JR.  
Attorney for Defendant

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7 Accordingly, the Court HEREBY ORDERS that the change of plea hearing is continued  
8 to October 2, 2008 at 9:30 A.M.

9 For good cause shown, the Court FURTHER ORDERS that time be excluded under the  
10 Speedy Trial Act from September 25, 2008 to October 2, 2008. The Court finds, based on the  
11 aforementioned reasons, that the ends of justice served by granting the requested continuance  
12 outweigh the best interest of the public and the defendant in a speedy trial. The failure to grant  
13 the requested continuance would deny defendant reasonable time necessary to reach a  
14 satisfactory plea agreement and would thus result in a miscarriage of justice. The Court therefore  
15 concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and  
16 (B)(i).

17 SO ORDERED.

18  
19 DATED: 9/25/08

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HOWARD R. LLOYD  
United States Magistrate Judge